

APPENDIX L -- PERMIT MODIFICATIONS FACT SHEET



Modifying RCRA Permits

Introduction

The Resource Conservation and Recovery Act (RCRA) requires each hazardous waste treatment, storage, and disposal facility to manage hazardous waste in accordance with a permit issued by the Environmental Protection Agency (EPA) or a state agency that has a hazardous waste program approved by EPA. A RCRA permit establishes the facility's operating conditions for managing hazardous waste. EPA and state agencies use the permit to specify the administrative and technical standards for each facility. Over time, however, the facility needs to modify the permit to improve equipment or make changes in response to new standards. Recognizing this, EPA established procedures early in the program for modifying permits. The Agency has now revised these procedures to provide more flexibility to both owners and operators of facilities and EPA and to increase public involvement. This brochure briefly describes EPA's new procedures for modifying RCRA permits.

These procedures are effective now in states where EPA administers the RCRA program. However, authorized states will not use these procedures until they have adopted them as part of their own programs.

The Old Process

Acknowledges that a permit would need to be modified for various reasons during its life, EPA established in 1980 a process for modifying them. The process included different procedures for major and minor modifications. A minor permit modification allowed a limited number of minor changes to occur, after EPA reviewed and approved the modification request. There was no requirement for public notice and comment.

For major modifications, EPA would follow procedures that were almost the same as those for issuing an initial permit. These procedures included developing a draft permit modification, announcing in a local newspaper and on the radio the availability of the proposed modification, providing a 45-day public comment period, and, if

requested, holding a public hearing. Public participation was limited to the specific permit conditions being modified.

A Need for Change

The old permit modification process was becoming increasingly unwieldy. It was impeding the ability of treatment, storage, and disposal facilities to respond quickly to improvements in technology and shifts in the types of wastes being generated. This made the routine changes necessary for effective operations more difficult to accomplish. Furthermore, the procedures often did not involve the public early enough in the modification process.

In response to these concerns, EPA developed new procedures with help from representatives from states and industrial, environmental, and public interest groups. The new process provides more flexibility for facilities to respond to changing conditions, clean up waste, and generally improve their waste management operations. In addition, the new procedures allow for more public involvement by expanding public notification and participation opportunities.

The Congress, in an effort to address the nation's growing concern about its hazardous and solid waste problem, enacted the Resource Conservation and Recovery Act (RCRA). The Hazardous and Solid Waste Amendments of 1984 greatly expanded RCRA and the Environmental Protection Agency's (EPA) authority to regulate the wastes.

As a result, EPA is developing regulations and programs to reduce, recycle, and treat wastes: restrict land disposal and require corrective action for releases of hazardous wastes, or their constituents, into the environment. EPA's Office of Solid Waste, through its publications, aims to foster public understanding and encourage citizen involvement in helping to manage the nation's waste problem.

The New Process

The new process establishes three classes of permit modifications and sets administrative procedures for approving modifications in each class.

Class One addresses routine and administrative changes. Lowest range of permit modifications.

Class Two primarily addresses improvements in technology and management techniques. Middle range of modifications.

Class Three deals with major changes to a facility and its operations. Highest range of modifications.

Class One Modifications

Class One modifications do not substantially alter the conditions in the permit or reduce the facility's ability to protect human health and the environment. Such changes may include

Improving administrative and routine functions.

Upgrading plans and records maintained by the facility.

Replacing some equipment with functionally equivalent equipment.

Most Class One changes do not require approval by the authorized permitting agency -- either EPA or a state -- before they are implemented. There are several types of changes, however, that may require such approval. EPA may deny any Class One modification.

Notifying the Public. Within 90 days of implementing a change, a facility making a Class One modification must notify the public by sending a notice to all parties on its mailing list. This mailing list includes people and organizations who have asked to be notified of the facility's activities. The list is maintained by the permitting agency. Citizens may be added to the mailing list by sending a written request to the agency. Any member of the public may ask EPA to review a Class One modification.

Class Two Modifications

Class Two modifications include those changes that enable a facility to respond to variations in the types and quantities of wastes that it manages, technological advancements, and new regulatory requirements. Class Two changes do not substantially alter the facility's design or the management practices prescribed by the permit. They do not reduce -- and in most cases should enhance -- the facility's ability to protect human health and the environment. Under some circumstances, the permitting agency may determine that the modification request should follow the more restrictive Class Three procedures.

Class Two modifications address change like

Increases of 25 percent or less in a facility's tank treatment or storage capacity.

Authorization to treat or store new wastes that do not require different management practices.

Modifications to improve the design of regulated units or improve management practices.

The new procedures require the facility to submit a request for approval of the change to the permitting agency. The request describes the change, explains why it is needed, and provides information showing that the change complies with EPA's technical standards for the facility. For Class Two modification, a facility may begin construction 60 days after submitting a request, although the permitting agency may delay all or part of the construction.

Involving the Public. The permit holder must notify people and organizations on the facility mailing list about the modification request by sending them a letter and publishing a notice in a major local newspaper. The notice must appear within seven days before or after the facility submits the request to the permitting agency. The newspaper notice marks the beginning of a 60-day comment period and announces the time and

place of an informal public meeting.

This public comment period is an opportunity for the public to review the facility's permit modification plans at the same time as the permitting agency -- early in the process. All written comments submitted during the 60-day comment period will be considered by the agency before a final decision is made on the modification request.

The public meeting is conducted by the permittee and is held no fewer than 15 days after the start of the comment period and no less than 15 days before it ends. The purpose of this meeting is to provide for an exchange of views between the public and the facility's owner or operator and if possible, to resolve any issues concerning the permit modification. The meeting is less formal than the public hearings held when a new RCRA permit is under development. Because the meeting is intended to be a dialogue between the facility owner or operator and its neighbors, the permitting agency is not required to attend the meeting. EPA believes that the meeting will result in more public comments being submitted to the agency and perhaps voluntary revisions to the permitted facility's notification request.

To inform citizens about how the facility has met the conditions of the permit the permitting agency must make the facility's compliance history available to the public. A compliance history may include many of any permit violations, when violations have occurred, and how the violations have been corrected.

Default Provision. The procedures for Class Two modifications include a default provision to ensure that the permitting agency responds promptly to the facility's request. The agency must respond to a request within 90 days or, if the agency calls for an extension, 120 days. If the agency does not reach a final decision on the request within 120 days, the facility is automatically allowed to conduct the requested activities for 180 days. During this period, the facility must comply with all federal and state regulations governing hazardous

waste facilities. If the permitting agency still has not acted by day 250, the facility then must let the public know that the facility will become permanently authorized to conduct the proposed activities unless the agency approves or denies the request by day 300. At any time during the Class Two procedures, the agency may reclassify the request as Class Three if there is significant public concern or if the permitting agency determines that the facility's proposal is too complex for the Class Two procedures. This reclassification would remove the possibility of an automatic decision by default.

Class Two Modification Schedule

Day 1	Modification request received by agency. Newspaper notice published and mailing list notified.
Days	
15-45	Informal public meeting held.
Day 60	Written public comments due to agency.
Day 90	Agency response to Class Two modification request due. Deadline may be extended 30 days.
Day 120	If no response, requested activity may begin for 180 days.
Day 250	If still no response, public notified.
Day 300	If still no response, activity permanently authorized.

Class Three Modifications

Class Three modifications address changes that substantially alter a facility or its operation. For example, the following modification requests fall under Class Three:

Requests to manage new wastes that require different management practices.

Major changes to landfill, surface impoundment, and waste pile liner, leachate collection, and detection systems.
Increases in tank, container, or incinerator capacity of more than

25 percent.
Major changes to the facility's groundwater monitoring program.

Involving the Public. For Class Three modifications, the facility must initially follow the same public notice, comment, and meeting procedures as for Class Two modifications. This allows for early public review and comment on proposed changes. Then the permitting agency must prepare a draft permit modification, allow 45 days for public comment on the draft, hold a public hearing if requested, and then issue or deny the permit modification request.

Public Involvement Steps for Class Three Modifications:

The facility representative

Requests a modification of the permit to the permitting agency.

Notifies the public.

Holds a public meeting

The permitting agency

Allows 60 days for public comment on the modification requests.

Prepare draft permit modification conditions.

Notifies the public of the agency's draft permit conditions.

Allows 45 days for public comment on permit conditions.

Holds a public hearing, if requested.

Issues or denies the revised permit conditions.

Temporary Authorization

For certain Class Two or Three modifications, the permitting agency may grant a facility temporary authorization to perform certain activities for up to 180 days. For example, temporary authorization may be granted to ensure that cleanups, or corrective actions, and closure activities can be undertaken

quickly and that sudden changes in operations not covered under a facility's permit can be addressed promptly. Activities performed under a temporary authorization must comply with the applicable waste management regulations. The facility must notify the public within seven days of making the request. The permitting agency may grant a temporary authorization without notifying the public. A facility may renew a temporary authorization only by requesting permit modification and initiating public participation.

Administering Permit Modifications

These procedures are effective only in states where EPA administers the RCRA program. States with hazardous waste programs equivalent to, or more stringent than, the federal program may be authorized by EPA to administer RCRA hazardous waste programs. Authorized states are not required to adopt this new permit modification process, although it is expected that many of them will. Therefore, for state-administered RCRA permits, the state agency may use different modification procedures until it adopts the new modification approach. However, EPA may use these new procedures in authorized states whenever it is necessary to change a RCRA permit to implement provisions imposed by federal law. EPA regional offices, listed below, maintain up-to-date information about which states are following this and other hazardous waste programs.

Getting Involved

EPA encourages community involvement in the permitting and permit modification processes. The revised permit modification procedures expand opportunities for the public to be notified and to participate. The procedures also allow for the expeditious approval of requests when there is no apparent public concern about proposed changes.

Citizen Involvement Steps

Contact your EPA regional office or state agency to identify the permitting agency.

Write the permitting agency and

request to be put on the mailing list to receive notices of permit modification requests.

Review modification requests.

State your support for, or objection to, the requested modification during the public comment period by providing written comments.

Participate in the public meetings. These informal meetings allow facility representatives to explain their permit modification requests and answer your questions.

For a copy of the new regulations governing the permit modification process and more information on the new permit modification process or other RCRA programs,

call EPA's RCRA Hotline: 800-424-9346; in Washington, DC., the number is 382-3000. Or contact EPA Regional Offices:

Region I

JFK Federal Building
Boston, MA 02203
(617) 573-9644

Region II

26 Federal Plaza
New York, NY 10278
(212) 264-8683

Region III

841 Chestnut Building
Philadelphia, PA 19107
(215) 597-7940

Region IV

345 Courtland Street, N.E.
Atlanta, GA 30365
(404) 347-3433

Region V

230 S Dearborn Street
13th Floor (HR-11)
Chicago, IL 60604
(312) 353-0398

Region VI

First International Bldg..
1445 Ross Avenue
Dallas, TX 75202
(214) 655-6785

Region VII

726 Minnesota Avenue
Kansas City, KS 66101
(913) 236-2888

Region VIII

999 18th Street
One Denver Pl., Suite 1300
Denver, CO 80202-2413
(303) 293-1676

Region IX

215 Fremont Street
San Francisco, CA 94105
(415) 974-8026

Region X

1200 Sixth Avenue
Seattle, WA 98101
(206) 442-1099

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